

REMARKS

In the present *Office Action*, claims 1, 3-10, and 12-21 were pending before the Office. Of these, claims 1, 7, 10, and 18 were the only independent claims.

Claims 1 and 3-6 were rejected under 35 U.S.C. § 103(a). Claims 7-10, and 12-21 were rejected under 35 U.S.C. § 103(a).

No claims are hereby added, amended, canceled, or withdrawn. Reconsideration is respectfully requested.

A. CLAIM REJECTION UNDER 35 U.S.C. § 103 OF CLAIMS 1 AND 3-6

Claims 1 and 3-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 2004/0081167 by Hassan-Ali et al. [hereinafter *Hassan-Ali I*] in view of U.S. Patent No. 7,020,161 to Eberle et al. [hereinafter *Eberle*]. Applicants respectfully traverse this rejection.

"When determining whether a claim is obvious, an examiner must make "a searching comparison of the claimed invention - *including all its limitations* - with the teaching of the prior art." *In re Wada and Murphy*, Appeal 2007-3733 (BPAI 2008) (citing *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995)). "Thus, 'obviousness requires a suggestion of all limitations in a claim.'" *Id* (citing *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (citing *In re Royka*, 490 F.2d 981, 985 (CCPA 1974)) (emphasis added).

Independent claim 1 recites, *inter alia*

transmitting data from the selected pipe flow
using a bandwidth corresponding to the
winning pipe flow.

Applicants respectfully submit that neither *Hassan-Ali I* nor *Eberle* disclose at least the above feature of independent claim 1. Specifically, it is submitted that the secondary

citation to *Eberle* fails to remedy the conceded deficiency in the primary citation to *Hassan-Ali I*. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of *Hassan-Ali I* and *Eberle* is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The *Office Action* concedes that the primary citation to *Hassan-Ali I* does not teach transmitting data from the selected pipe flow using a bandwidth corresponding to the winning pipe flow. *Office Action*, page 3. Nonetheless, the *Office Action* rejects independent claim 1, contending that the secondary citation to *Eberle* provides this necessary disclosure. *Office Action*, page 3. This contention is respectfully traversed.

It is noted that the *Office Action* offers the following specific citation within *Eberle*:

(5:[002] read [a] precalculated schedule can accommodate isochronous traffic e.g. winning pipe flow, by allocating the necessary connection between an input and output port at intervals derived from the rate of the isochronous data stream. That way, an appropriate amount of switch bandwidth i.e. bandwidth corresponding to winning pipe flow can be reserved.)

Applicants assume that the *Office Action* is referring to column 5, lines 29-34. Applicants respectfully submit that the citation makes no reference whatsoever to a "winning pipe flow." Rather, the *Office Action* appears to attempt to equate isochronous traffic to a "winning pipe flow." Accordingly, Applicants respectfully submit that the citation to *Eberle* cannot properly be relied upon for disclosing "a winning pipe flow," let alone "transmitting data from the selected pipe flow using a bandwidth corresponding to the winning pipe flow."

Withdrawal of the rejection is respectfully requested.

Regarding the rejection of claims 3-6, these claims depend directly or indirectly on independent claim 1, and are therefore believed to be allowable for at least the reasons noted above.

B. CLAIM REJECTION UNDER 35 U.S.C. § 103 OF CLAIMS 7-10 and 12-21

Claims 7-10 and 12-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Hassan-Alli I* in view of *Eberle* and in further view of U.S. Patent Application No. 2004/0081157 to Hassan-Alli et al. [hereinafter *Hassan-Alli II*]. Applicants respectfully traverse this rejection.

Independent claims 7, 10, and 18 recite, respectively:

writing data regarding the pipe flow to a second calendar;

a secondary calendar for storing pipe flows that are scheduled to be serviced; and

write data regarding the pipe flow to the second calendar[.]

Applicants respectfully submit that neither *Hassan-Alli I*, *Eberle*, nor *Hassan-Alli II* disclose at least the above features. Specifically, it is submitted that the tertiary citation to *Hassan-Alli II* fails to remedy the conceded deficiency of the citations to *Hassan-Alli I* and *Eberle*. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of *Hassan-Alli I*, *Eberle*, and *Hassan-Alli II* is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The *Office Action* concedes that the primary citation to *Hassan-Alli I* does not teach writing data regarding the pipe flow to a second calendar. *Office Action*, page 5. Due to *Office Action's* reliance on the tertiary reference to *Hassan-Alli II*, and

based on the Applicants inability to find a disclosure in *Eberle* of, for example, a "second calendar" or "secondary calendar" the Applicants assume that the *Office Action* intended to concede that the secondary citation to *Eberle* also fails to disclose the above features. Instead, the *Office Action* rejects independent claims 7, 10, and 18 contending that the tertiary citation to *Hassan-Ali II* provides this necessary disclosure. *Office Action*, page 5. This contention is respectfully traversed.

As noted above, it is well settled law that obviousness requires a suggestion of all limitations in a claim. As previously indicated in prosecution, *Hassan-Ali II* does not appear to mention even a second calendar, much less writing data regarding a pipe flow to a second calendar, or a secondary calendar for storing pipe flows that are scheduled to be serviced.

Withdrawal of the rejection is respectfully requested.

Regarding the rejection of claims 8, 9, 12-17, and 19-21, these claims depend directly or indirectly on one of independent claims 7, 10, or 18, and are therefore believed to be allowable for at least the reasons noted above.

C. CONCLUSION

Since Applicants assert that all the independent claims are in condition for allowance and all remaining claims properly depend from the independent claims, Applicants assert that all claims are allowable.

Applicants do not believe a request for extension of time is required but if it is, please accept this paragraph as a request for an extension of time and authorization to charge the requisite extension fee to Deposit Account No. 04-1696. Applicants do not believe any additional fees are due regarding

this amendment. However, if any additional fees are required,
please charge Deposit Account No. 04-1696.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Steven M. Santisi". The signature is stylized with a large, looped "S" and a cursive "M".

Dated: July 1, 2008
Hawthorne, New York

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